IN THE

Supreme Court of the United States

OCTOBER TERM, 1943

No. 724

CLYDE H. WALKER, *Petitioner*,

v.

P. J. SQUIER, WARDEN, UNITED STATES PENITENTIARY, McNeil Island, Washington, *Respondent*.

(This is a petition in my own behalf, to have leave of the Court, that I may file a petition and brief in support for a Writ of Certiorari to the Circuit Court of Appeals for the Ninth Circuit.)

Your petitioner, Clyde H. Walker, for himself hereby asks leave of this Court to grant permission to me to be allowed to prepare and file for consideration by this Court a petition and brief in support in said Cause No. 724, October Term, 1943, for a Writ of Certiorari to the United States Circuit Court of Appeals for the Ninth Circuit.

The reason this request is made is that I appeared as my own counsel and the only counsel for defense in two lengthy original criminal trials, and for myself in the hearing on present petition in the United States District Court, while during all of such proceedings I was a pauper.

That pending appeal of this Habeas Corpus action to Ninth Circuit Court of Appeals I became possessed of funds sufficient to pay costs, printing, and to employ counsel.

That I deferred my right to apply for parole to prosecute petition for Habeas Corpus, as I felt that my conviction was illegally obtained as two trials were necessary—the first jury not able to agree and the second jury deliberated twenty-nine hours before agreeing to guilty verdict, which evidences the fact that the case was close and not one without some question of guilt, and that possible undue advantage and illegal procedure on part of prosecution was a decisive contributing factor to gaining a conviction.

That in all respect to my Counsel, I am of the opinion that the whole and complete simple theory of my cause has not been presented to this Court and I quote from petition for rehearing by my Counsel:

> "The three most vital issues involved were not presented and two were inadequately presented owing to insufficient time to study the case."

The real issue, and in reality it is not so complicated, has not been as yet presented. I have a complete and adequate cause for relief, with controlling decisions of this Court firmly establishing my every contention, that I ask to present, with convincing reasons why I should be granted relief by Habeas Corpus, which issue for some reason, unknown to me, has not been presented, although backed in the record, and I am simply asking that the privilege, be granted to allow me in the end, of securing a just hearing on present record to prepare and file on and for my own self a petition to be considered by this Court.

ISSUE INVOLVED

The issue involved is: Does the violation of a procedural statute in a criminal proceeding of the United States District Court, which prejudices the accused, exceed the due process clause of the V Amendment to the Constitution, so as to give one so illegally convicted, without knowledge of the statute violation until over three years after conviction, a right to relief upon gaining the true facts of violation, which if such knowledge could have been had at trial and brought to the attention of the court during trial a certain mis-trial would have been granted to accused, or if in time to appeal a new trial for the error would have been ordered by Appellate Court or this Court. Now I am certain I have a right of remedy for the wrong, and the remedy is two-fold—as by the common law practice of a writ of error coram nobis—now consummated in a motion, or by a writ of habeas corpus, the latter of which I am proceeding on this appeal.

BASIC PRINCIPLES

The following basic principles which my petition and brief, if you grant, will contain:

(1) That an appellant and appellee on appeal must stick to the record as certified by the District Court, and not try to expand or add material and facts not presented in Trial Court.

(2) That all power to United States Courts in trial of crimes are gained by the Constitution and Statutes passed by Congress, and no crimes in United States Courts can be punished or tried as common law, simply meaning, All Crimes and Criminal Procedure in United States Courts are Statutory.

(3) That judges, lawyers, jurors, witnesses and all United States Government officers are to be governed by the same rules and laws as one in court accused of a crime and no partiality is to be shown to either prosecution or defense.

(4) That in a criminal trial before the bar seeking justice a poor man should be on the same basis of equality in proceedings as the rich man, and all laws should apply with equal specification to the poor as to the rich and to the accused as to the prosecution.

(5) That the burden of proof in a habeas corpus proceeding is on the petitioner to show he is being illegally detained, to have the Writ issue to give him freedom.

If the above five (5) principles are sound, and I affirm they are, and will present citations of this Court if granted permission, to back my theory, and in order to have justice, I appeal to fairness that you grant me an opportunity to speak for myself in petition and brief.

That as I am incarcerated in McNeil Island Penitentiary, and necessarily certain rules and regulations slow the mechanics of getting statutes, copies of court decisions, preparation and printing of a presentation to your Honors, and whereas, if granted a hearing could not be had until next October term, 1944, I, therefore, ask that I be given until September 1st, 1944, or as near thereto as permissible, to file my petition for certiorari in my own behalf. It will be concise, not lengthy, to the point, polite but fearless, within the record, and a United States Supreme Court decision for every presentment.

CLYDE H. WALKER,
Pro Se.

I, Clyde H. Walker, for myself do hereby certify that the foregoing petition is presented in the very utmost sincerity and good faith, backed by legal practice since 1910 on part of petitioner, and that it is not for delay but an asking to be allowed to speak for myself in a most serious situation, that my legal theory of my case may be presented.

CLYDE H. WALKER,
Pro Se.

May 1944. I certify that three copies of this presentment have been placed in the United States Post Office at Tacoma, Washington, with correct postage stamps thereon, and addressed to Honorable Charles Fahy, Solicitor General, Department of Justice Building, Washington, D. C. (air mail)

CLYDE H. WALKER.